

[Service Date December 17, 2009]

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Determining the Proper	)	DOCKET TV-091500
Carrier Classification of, and Complaint	)	
for Penalties against:	)	ORDER 01
	)	
GRANT E. FARRELL d/b/a	)	ORDER INSTITUTING SPECIAL
FARRELL MOVING COMPANY	)	PROCEEDING; COMPLAINT
	)	SEEKING TO IMPOSE
	)	PENALTIES
	)	and
	)	NOTICE OF HEARING
	)	(Set for January 15, 2010,
	)	at 9:00 a.m.)
_____	)	

**INTRODUCTION**

- 1 The Washington Utilities and Transportation Commission (Commission), pursuant to RCW 81.04.510, institutes this special proceeding on its own motion to determine whether Grant E. Farrell, d/b/a Farrell Moving Company (“Farrell Moving” or “Company”), has engaged, and is engaging, in business as a household goods carrier within the state of Washington without the authority required by RCW 81.80.
- 2 The Commission has information from which it believes and therefore alleges that Farrell Moving has advertised, solicited, offered, or entered into one or more agreements to transport household goods within the state of Washington without first having obtained a household goods carrier permit from the Commission. The information demonstrates a continuing pattern of behavior over an extended period of time, including the present time.
- 3 Pursuant to RCW 81.04.510, upon proof of these allegations, the Commission is authorized to issue an order requiring Farrell Moving to cease and desist activities subject to regulation under Title 81 RCW. In addition, RCW 81.04.110 authorizes the Commission to file a complaint on its own motion setting forth any act or omission by Farrell Moving that violates any law, or any order or rule of the Commission. The Commission may impose financial penalties of up to \$5,000 for each violation shown.

- 4 At the hearing in this special proceeding that will be conducted pursuant to Part IV of the Administrative Procedure Act (APA), RCW 34.05, of which notice is given here, the Commission will also consider its Complaint against Farrell Moving alleging various violations of law as specified below and decide whether Farrell Moving should be penalized.

**ORDER AND NOTICE OF HEARING**

- 5 The Commission has jurisdiction to institute a special proceeding to determine whether Farrell Moving is conducting business requiring operating authority, or has performed or is performing any act requiring Commission approval without securing such approval pursuant to RCW 80.01.040, RCW 81.01.010, and RCW 81.04.510. In addition to the foregoing statutes, this matter involves Title 81 RCW, including but not limited to RCW 81.01.010; RCW 81.04.020; RCW 81.80.010, RCW 81.80.070, and RCW 81.80.075. This matter also involves the administrative rules set forth in WAC 480-15 and WAC 480-07.
- 6 **IT IS HEREBY ORDERED** That Farrell Moving appear before the Commission in this special proceeding conducted under the authority of RCW 81.04.510 at 9:00 a.m. on January 15, 2010, in Room 206, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington, to give testimony and evidence under oath as to its operations. Farrell Moving shall appear at the time and place set forth above unless the Executive Director and Secretary of the Commission, by notice of hearing, specifies a different time and place. This is ordered pursuant to the subpoena powers granted in RCW 34.05.446, RCW 80.01.060(1), and RCW 81.04.510.
- 7 **IT IS FURTHER ORDERED** that at the hearing in this special proceeding the burden of proving that the alleged operations are not subject to the provisions of Title 81 RCW shall be upon Farrell Moving, as provided by RCW 81.04.510.
- 8 **NOTICE IS FURTHER GIVEN THAT ANY PARTY WHO FAILS TO ATTEND OR PARTICIPATE IN THE HEARING SET BY THIS NOTICE, OR ANY OTHER STAGE OF THIS PROCEEDING, MAY BE HELD IN DEFAULT IN ACCORDANCE WITH RCW 34.05.440 AND WAC 480-07-450.**

- 9 If a limited English-speaking or hearing-impaired party needs an interpreter, a form is attached to this notice to be filled out and returned as indicated, so that a qualified interpreter may be appointed at no cost to the party or witness.
- 10 The names and mailing addresses of all parties and their known representatives are shown as follows:

Carrier: Mr. Grant E. Farrell  
Farrell Moving Company  
5705 Littlerock Rd SW, #33  
Tumwater, WA 98512

Representative: Unknown

Commission: Washington Utilities and  
Transportation Commission  
1300 S. Evergreen Park Drive S.W.  
P.O. Box 47250  
Olympia, WA 98504-7250  
(360) 664-1160

Representative: Jennifer Cameron-Rulkowski  
Assistant Attorney General  
1400 S. Evergreen Park Drive S.W.  
P.O. Box 40128  
Olympia, WA 98504-0128  
(360) 664-1186

## **COMPLAINT SEEKING PENALTIES**

### **PARTIES**

- 11 Complainant, the Washington Utilities and Transportation Commission, is an agency of the State of Washington, authorized by state law to regulate the rates, services, facilities, and practices of public service companies, including household goods carriers, under the provisions of Title 81 RCW.
- 12 Respondent, Farrell Moving, owned by Grant E. Farrell, is a sole proprietorship that does business in the state of Washington.

### **JURISDICTION**

- 13 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040, RCW 80.04.110, RCW 81.01.010, RCW 81.04.160, RCW 81.04.460, and RCW 81.80.

### **BACKGROUND**

- 14 In January 2009, Commission Staff (Staff) identified Farrell Moving as a nonpermitted household goods carrier through a storefront sign and an advertisement on the Web site [www.craigslist.com](http://www.craigslist.com) (craigslist). The Company subsequently was referred to a Staff Compliance Investigator for investigation.
- 15 According to the Compliance Investigator's Declaration, presented to the undersigned administrative law judge<sup>1</sup> under penalty of perjury, the following facts establish probable cause for the Commission to complain against the activities of Farrell Moving and to seek penalties in accordance with applicable law.
- 16 In April 2009, Staff discovered further advertising for Farrell Moving on [craigslist](http://craigslist.com) and located advertisements and listings for the Company on the following Web sites: [www.city-data.com](http://www.city-data.com), [www.mover-finder.com](http://www.mover-finder.com), [www.movers.iaf.net](http://www.movers.iaf.net) and

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<sup>1</sup> Administrative law judges appointed by the Commission are empowered, among other things, to "make findings of probable cause and issue complaints in the name of the commission." RCW 80.01.060(1).

www.tacoma.com. Farrell Moving advertises also on its own Web site, www.farrellmoving.com.

- 17 The Commission sent Farrell Moving a letter in April 2009 instructing the Company to cease operating and advertising as a household goods carrier. The letter contained permitting information and warned of enforcement were Farrell Moving to fail to comply with the law.
- 18 Mr. Grant Farrell of Farrell Moving contacted Staff on April 17, 2009, following receipt of the Commission's letter. Staff answered many questions and discussed with Mr. Farrell the insurance requirements for household goods movers, the Company's Web site, and the rates and charges of the Commission's household goods tariff. Initially, Mr. Farrell indicated that he would continue to advertise for the transportation of household goods on his Web site until July when a new law prohibiting household goods advertising without a permit would go into effect. Ultimately, however, he indicated that he wanted to operate legally, and provided his mailing address so that the Commission could mail him a permit application.
- 19 In the course of the conversations with Mr. Farrell in April 2009, Staff learned that Farrell Moving was not carrying liability insurance.
- 20 On April 30, 2009, Staff found that the Company still was advertising on craigslist, and the Commission had not received a household goods carrier permit application from Farrell Moving.
- 21 On July 15, 2009, the Commission sent a letter to Farrell Moving informing the Company about a new law, Laws of 2009, ch. 94, effective July 26, 2009, allowing the Commission to seek penalties and other enforcement against illegal carriers for advertising to transport household goods. In this letter, the Commission stated that Farrell Moving must cease advertising as a household goods mover and, to avoid enforcement action, Farrell Moving must file a household goods carrier permit application by August 15, 2009.
- 22 The Commission has not received a household goods carrier permit application from Farrell Moving, and Farrell Moving has continued to advertise household goods moving services in various formats on the Internet.

- 23 Specifically, the Commission has evidence that Farrell Moving is advertising on the Internet to transport household goods within the state of Washington and that advertisements for Farrell Moving's moving services have appeared after July 26, 2009, at [www.craigslist.org](http://www.craigslist.org) and on Farrell Moving's own Web site at [www.farrellmoving.com](http://www.farrellmoving.com).

### **APPLICABLE LAW AND REGULATION**

- 24 Under state law, the definition of "household goods carrier" includes a person who "advertises, solicits, offers, or enters into an agreement to transport household goods" within the state of Washington. *RCW 81.80.010(5)*.
- 25 The term "person" can mean a firm as well as an individual. *RCW 81.04.010(6)*. Specifically included in this term are companies, corporations, and partnerships. *WAC 480-15-020*.
- 26 The Commission defines household goods as "the personal effects and property used, or to be used, in a residence" in the context of transportation from one residence to another, or to a storage facility. *WAC 480-15-020*.
- 27 Household goods carriers are common carriers. *RCW 81.04.010(11)*. For the purposes of Title 81 RCW, every common carrier is a public service company. *RCW 81.04.010*.
- 28 It is illegal to engage in business as a household goods carrier within the state of Washington without first obtaining a household goods carrier permit from the Commission. *RCW 81.80.075(1)*.
- 29 Any person who engages in business as a household goods carrier in the state of Washington without the required permit is subject to a penalty of up to five thousand dollars per violation. *RCW 81.80.075(4)*. If the basis for the violation is advertising, each advertisement reproduced, broadcast, or displayed via a particular medium constitutes a separate violation. *RCW 81.80.075(4)(a)*.
- 30 When deciding the amount of the penalty to be ordered for engaging in business as a household goods carrier without a household goods carrier permit, the Commission must consider (1) the carrier's willingness to comply with the requirements of *RCW 81.80.070* and the Commission's household goods carrier rules; and (2) the carrier's history of compliance with the provisions of *RCW 81.80.075*. *RCW 81.80.075(4)(b)*.

- 31 The Commission is authorized to file a complaint on its own motion setting forth any act or omission by any public service company that violates any law or any order or rule of the Commission. *RCW 81.04.110.*

### **COMPLAINT**

- 32 The Commission, through its Staff, re-alleges the allegations contained in paragraphs 11 through 31 above.

- 33 Farrell Moving has violated RCW 81.80.075(1) by advertising on the Internet to transport household goods without first having obtained a household goods carrier permit from the Commission. Content has appeared after July 26, 2009, on the Internet at [www.craigslist.org](http://www.craigslist.org) and at Farrell Moving's own Web site, [www.farrellmoving.com](http://www.farrellmoving.com), that constitutes multiple distinct advertisements for the transportation of household goods by Farrell Moving.

### **REQUEST FOR RELIEF**

- 34 Staff requests that the Commission, pursuant to its authority under RCW 81.80.075(4), assess penalties of five thousand dollars against Farrell Moving for each advertisement that constitutes a separate violation of RCW 81.80.075(1).

### **PROBABLE CAUSE**

- 35 Based on a review of the Declaration of the Commission Compliance Investigator assigned to this matter, and consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds probable cause exists to issue this Complaint.

### **NOTICE OF HEARING**

- 36 **THE COMMISSION GIVES NOTICE THAT it will conduct a hearing concerning this Complaint concurrently with the special proceeding noticed above, which will commence at 9:00 a.m. on January 15, 2010, in Room 206, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.** Administrative Law Judge Ann E. Rendahl, from the Utilities and Transportation Commission's Administrative Law Division, 1300 S. Evergreen Park Drive S.W.,

Olympia, Washington 98504-7250, is designated to preside at the hearing of these matters.

DATED at Olympia, Washington, and effective December 16, 2009.

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DENNIS J MOSS  
Senior Review Judge  
Administrative Law Division

Inquiries should be addressed to:

Executive Director and Secretary  
Washington Utilities and  
Transportation Commission  
Richard Hemstad Building  
1300 S. Evergreen Park Drive S.W.  
P. O. Box 47250  
Olympia, WA 98504-7250  
(360) 664-1160



**NOTICE**

PLEASE NOTE: The hearing facilities are accessible to interested people with disabilities; that smoking is prohibited; and, if limited English-speaking or hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

The information needed to provide an appropriate interpreter or other assistance should be stated below and returned to Washington Utilities and Transportation Commission, Attention: David W. Danner, 1300 S. Evergreen Park Drive SW, P.O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket: \_\_\_\_\_

Case Name: \_\_\_\_\_

Hearing Date: \_\_\_\_\_ Hearing Location: \_\_\_\_\_

Primary Language: \_\_\_\_\_

Hearing Impaired: (Yes)\_\_\_\_\_ (No)\_\_\_\_\_

Do you need a certified sign language interpreter?

Visual\_\_\_\_\_ Tactile\_\_\_\_\_

Other type of assistance needed: \_\_\_\_\_

English-speaking person who can be contacted if there are questions:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone No.: (\_\_\_\_)\_\_\_\_\_